

PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031

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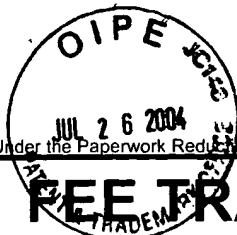
<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/759,811	
	Filing Date	January 16, 2004	
	First Named Inventor	Patrick Miles	
	Art Unit	3764	
	Examiner Name	TBD	
Total Number of Pages in This Submission	14	Attorney Docket Number	039US1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input checked="" type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>		
Firm or Individual name	Jonathan Spangler	
Signature		
Date	July 21, 2004	

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.		
Typed or printed name	Jonathan Spangler	
Signature		Date July 21, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 120.00

**Complete if Known**

Application Number	10/759,811
Filing Date	January 16, 2004
First Named Inventor	Patrick Miles
Examiner Name	TBD
Art Unit	3764
Attorney Docket No.	039US1

**METHOD OF PAYMENT** (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number: 502040  
Deposit Account Name: NuVasive, Inc.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$)

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims		Extra Claims		Fee from below		Fee Paid	
Independent Claims		-20** =		X			
Multiple Dependent		-3** =		X			

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)					(\$)

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION** (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	65
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	55
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 120.00

**SUBMITTED BY**

Name (Print/Type)	Jonathan Spangler	Registration No. (Attorney/Agent)	40,182	Telephone	858-243-0029
Signature		Date	July 21, 2004		

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT  
Application Serial No. 10/759,811  
Attorney Ref. No. 039US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Patent Application of )  
 )  
Patrick Miles, et al. )  
 ) Group Art Unit: 3764  
 )  
App. Ser. No. 10/759,811 )  
 ) Examiner: To be determined  
Filed: January 16, 2004 )  
 )  
For: SURGICAL ACCESS SYSTEM )  
AND RELATED METHODS )  
 )  
 )  
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 )

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop: Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 21, 2004:

Signature: \_\_\_\_\_

Printed Name: Jonathan Spangler

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

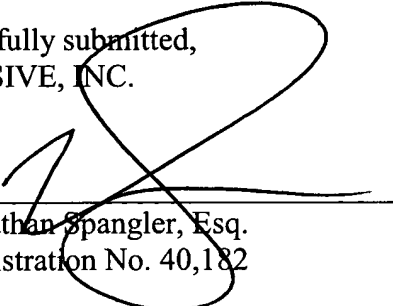
Dear Sir or Madam:

In response to a Notice to File Missing Parts mailed on April 23, 2004, having a two-month period for response that expired June 23, 2004, the applicant respectfully submits the following:

- (A) A copy of the Notice to File Missing Parts (2 pages);
- (B) A signed declaration by the inventor(s) as required by the Notice (~~3~~<sup>4</sup> pages);
- (C) An executed Power of Attorney on behalf of deceased inventor's estate (1 page);
- (D) An executed Assignment on behalf of deceased inventor's estate (1 page);
- (E) Petition for an extension of time for one (1) month (1 page & 1 copy);
- (F) Fee transmittal authorizing payment of \$65.00 fee for the late filed declaration; and  
\$55.00 fee for the extension of time, for a total of \$120.00.

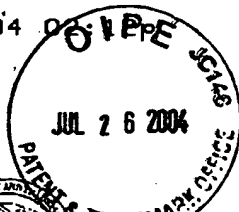
Furthermore, no other fees are deemed necessary at this time. However, in the event that there are any additional fees to be charged or payments to be credited, the applicant hereby request that any charges or credits be made to Deposit Account No.: 502040 for Customer No.: 30328. In the event that there are any questions concerning the remarks above or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that prosecution may be expedited.

Respectfully submitted,  
NUVASIVE, INC.

By:   
Jonathan Spangler, Esq.  
Registration No. 40,182

10065 Old Grove Road  
San Diego, CA 92131  
Tel.: (858) 243-0029

July 16, 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/759,811	01/16/2004	Patrick Miles	039US1

30328  
 NU VASIVE, INC.  
 10065 OLD GROVE ROAD  
 SAN DIEGO, CA 92131

CONFIRMATION NO. 8249

## FORMALITIES LETTER



\*OC000000012432028\*

Date Mailed: 04/23/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$65 for a Small Entity

- \$65 Late oath or declaration Surcharge.

07/27/2004 RAEBRANT 00000035 502040 10759811

Items Required To Avoid Processing Delays:

02 FC:2051 65.00 DA

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid processing delays.


- A new oath or declaration, identifying this application number is required. The oath or declaration does not comply with 37 CFR 1.63 in that it:
- does not identify the residence (e.g., city and either state or foreign country) of each inventor.
- Proof of authority of the legal representative under 37 CFR 1.44.

Replies should be mailed to: Mail Stop Missing Parts

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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*A copy of this notice **MUST** be returned with the reply.*

  
\_\_\_\_\_  
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Initial Patent Examination Division (703) 308-1202  
PART 2 - COPY TO BE RETURNED WITH RESPONSE